



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 705

IN THE MATTER OF EILEEN CAMPANINI

DISPOSITION AGREEMENT

The State Ethics Commission and Eileen Campanini enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On November 13, 2003, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A and c. 268B, by Campanini. The Commission has concluded its inquiry and, on February 19, 2004, found reasonable cause to believe that Campanini violated G.L. c. 268A, § 19.

The Commission and Campanini now agree to the following findings of fact and conclusions of law.

Facts

1. Campanini has been a member of the Bridgewater Zoning Board of Appeals ("Zoning Board") since 2002.
2. Campanini owns a 1.34 acre parcel of property on Pleasant Street in Bridgewater (the "Pleasant Street Property"). The Pleasant Street Property has on it the remains of an existing outbuilding.
3. In 1998, Campanini applied to the Bridgewater Planning Board for an "approval not required" endorsement, which would allow her to subdivide the Pleasant Street Property from adjacent property with a single-family home on it without having to satisfy the requirements under G.L. c. 41, §§ 81K et seq., the subdivision control law. On January 4, 1999, the Planning Board endorsed Campanini's plan, holding that under G.L. c. 41, § 81L¹ it was not a subdivision.
4. Following the Planning Board's endorsement, the building inspector told Campanini that he would not grant her a building permit for the Pleasant Street Property

until she had secured a frontage variance from the Zoning Board, since the frontage for the Pleasant Street Property was inadequate.

5. On June 26, 2000, Campanini petitioned the Zoning Board for a frontage variance for the Pleasant Street Property. Her signed variance petition states that the Planning Board endorsed the subdivision of her property under § 81L.

6. On November 8, 2000, the Zoning Board, which did not then include Campanini, denied her variance application. As a result, Campanini could not develop the Pleasant Street Property.

7. In June 2002, an individual owning property located at 206 Bedford Street in Bridgewater (the "Bedford Street Property Owner") received an endorsement from the Planning Board that his subdivided property, like Campanini's, did not constitute a subdivision under § 81L.

8. As in Campanini's case, the building inspector advised the Bedford Street Property Owner that he needed to obtain a frontage variance from the Zoning Board in order to get a building permit.

9. In June 2002, the Bedford Street Property Owner petitioned the Zoning Board for a variance for his property.

10. On August 7, 2002, Campanini and her fellow board members voted 3-0 to allow the Bedford Street Property Owner to withdraw his variance application without prejudice. The board decided that because the Bedford Street Property Owner's property had been endorsed by the Planning Board under § 81L, it was not necessary for the Bedford Street Property Owner to seek a variance from the Zoning Board.

11. The building inspector issued a building permit to the Bedford Street Property Owner on September 17, 2002, which, on November 22, 2002, the Bedford Street Property Owner's abutters appealed to the Zoning Board.

12. On or about November 26, 2002, a local developer applied to the building inspector for a building permit to construct a single family dwelling on Campanini's Pleasant Street Property. The developer and Campanini were parties to a purchase and sale agreement for the Pleasant Street Property under which the developer would purchase the Pleasant Street Property for \$150,000, provided he could get a building permit.

13. After the developer's submission of the building permit application, the building inspector, the developer and Campanini met to discuss the application. At the meeting, the building inspector informed the developer and Campanini that he would not issue a building permit for the Pleasant Street Property until the appeals related to the Bedford Street Property had been completed.

14. On January 23, 2003, the Zoning Board considered the Bedford Street Property abutters' appeal. Campanini and her fellow Zoning Board members voted 3-0 to uphold the issuance of the building permit for the Bedford Street Property, holding that "the Planning Board made the decision to endorse under § 81L and it is not [within] the purview of the Zoning Appeals Board."

15. At the time of the January 2003 meeting Campanini knew that the outcome of the Bedford Street Property matter would likely affect the status of the building permit application for her own property.

16. The Zoning Board's January 2003 decision to uphold the issuance of a building permit for the Bedford Street Property was appealed to the courts. The court appeal of that matter continues. The building inspector never issued the building permit for Campanini's property, and her purchase and sale agreement has expired.

17. Campanini cooperated fully in the Commission's investigation of this matter.

Conclusions of Law

18. Section 19 of G.L. c. 268A prohibits a municipal employee from participating² as such an employee in a particular matter³ in which, to her knowledge, she has a financial interest.⁴

19. As a Zoning Board member, Campanini was during the relevant time period a municipal employee as that term is defined in G.L. c. 268A, § 1.

20. The Zoning Board's January 23, 2003 vote to uphold the issuance of a building permit for the Bedford Street Property was a particular matter.

21. By voting on that particular matter, Campanini participated as a municipal employee in the particular matter.

22. Campanini had a financial interest in the Zoning Board's January 23, 2003 vote on the Bedford Street Property. Campanini's Purchase and Sale Agreement conditioned the sale of the Pleasant Street Property on the issuance of a building permit. It was the Zoning Board's denial of a variance for the Pleasant Street Property in November 2000 that blocked Campanini from obtaining a building permit and developing the lot. The January 2003 vote affirming that a building permit could issue for a property endorsed by the Planning Board under § 81L without the need for the property-owner to obtain any variances from the Zoning Board would make it likely that a building permit would issue for the Pleasant Street Property, clearing the way for Campanini's sale of that property.

23. Campanini knew of her financial interest in the Bedford Street Property matter when she participated in the January 23, 2003 vote described above.

24. Accordingly, by participating in the January 23, 2003 vote affirming the issuance of a building permit for the Bedford Street Property, Campanini violated § 19.⁵

Resolution

In view of the foregoing violation of G.L. c. 268A by Campanini, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Campanini:

- (1) that Campanini pay to the Commission the sum of \$2,000 as a civil penalty for violating G.L. c. 268A, § 19; and
- (2) that Campanini waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: May 25, 2004

¹ The final clause of § 81L states that “the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.”

² “Participate” means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, § 1(j).

³ “Particular matter” means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, § 1(k).

⁴ “Financial interest” means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. See *Graham v. McGrail*, 370 Mass. 133 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. See *EC-COI-84-98*. The interest can be affected in either a positive or negative way. *EC-COI-84-96*.

⁵ Campanini’s participation in the August 7, 2002 vote on the Bedford Street Property also raises issues under § 19. The Commission in its discretion elected to focus on Campanini’s January 2003 conduct in levying a civil penalty.